

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

KENNETH L. HOLLAND,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 05-464-SLR
)	
STANLEY TAYLOR, et al.,)	
)	
Defendants.)	

ADAM J. BRAMBLE,)	
)	
Defendant,)	
Counter-claim plaintiff,)	
)	
v.)	
)	
KENNETH L. HOLLAND)	
)	
Plaintiff,)	
Counter-claim defendant.)	

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR
ENLARGEMENT OF TIME**

COME NOW Defendants, by and through undersigned counsel respectfully move this Honorable Court to enter an Order denying Plaintiff's Motion for Enlargement of Time to complete discovery. In support of this motion, Defendants offer the following:

1. On or about July 5, 2005, the Plaintiff filed a Complaint pursuant to 42 U.S.C. §1983 with motion to leave to proceed *in forma pauperis*. (D.I. 2). On or about November 22, 2005, Plaintiff filed an Amended Complaint. (D.I. 13). On January 6, 2006, Plaintiff's motion to file an Amended Complaint was granted. (D.I. 17). On or about March 29, 2006, Defendants propounded discovery requests of Production of Documents and Interrogatories directed to Plaintiff. (D.I. 34, 35). On or about April 25,

2006, a scheduling order was issued. (D.I. 36). The discovery deadline was set for August 25, 2006, with dispositive motions due September 25, 2006. On or about August 2, 2006, Plaintiff propounded discovery requests of Interrogatories and Production of Documents directed to Defendants. (D.I. 44). Plaintiff's deposition was taken on August 22, 2006.

2. Defendants filed a Motion for Enlargement of Time in which to file a Motion for Summary Judgment on or about September 15, 2006. (D.I. 45). On or about September 26, 2006, Defendants' Motion for Enlargement of Time was granted and a new scheduling order was issued. (D.I. 46). The deadline for opening briefs was November 30, 2006. *Id.* On or about November 27, 2006, Defendants filed a Motion for Summary Judgment with an accompanying Opening Brief in Support thereof. (D.I. 52, 53). Briefing was completed on January 12, 2007. (D.I. 57).

3. On or about July 26, 2007, Plaintiff's Amended Complaint to add Defendants Kent Raymond, Wilbur Justice and Theresa Demarco as parties to the suit was granted. (D.I. 59). On or about July 31, 2007, Defendants filed a Motion for Enlargement of Time to complete discovery regarding Plaintiff's claims against Defendants Raymond, Justice and Demarco. (D.I. 60). On or about August 8, 2007, Defendants' Motion was granted and a new scheduling order was issued. (D.I. 61). The new discovery deadline was set for October 8, 2007. On or about August 16, 2007, service of process was ordered issued upon Defendants Raymond, Justice and Demarco. (D.I. 62). On or about October 2, 2007, Defendants filed a Motion for Enlargement of Time to complete discovery and summary judgment briefing because as of that date the newly added Defendants had not yet been served. (D.I. 63). Defendants' motion was

granted. Discovery was to be completed 90 days after completion of service to the newly added Defendants.

4. On or about November 20, 2007, an Order to show cause was issued by the Court to Plaintiff regarding failure to serve Defendants Justice, Demarco, Scala and Danials. The Plaintiff responded to the court's order on December 13, 2007, claiming that Defendants Scala, Justice and Demarco "decided to move on to another job or retire outside of the department of corrections" implying that he was unable to serve them. On or about December 17, 2007, Plaintiff filed discovery requests of Production of Documents and Interrogatories directed to Defendants Bramble and Raymond. (D.I. 72). On or about January 4, 2008, Defendants filed discovery requests of Production of Documents and Interrogatories upon the Plaintiff. (D.I. 73, 74). On or about January 8, 2008, the Plaintiff filed a Motion for Enlargement of Time to complete discovery. (D.I. 75).

5. According to the Court's Order dated October 9, 2007, discovery was to be completed 90 days after the newly added Defendants were served. As previously stated, service has not been made upon Defendants Scala, Justice and Demarco. However service of process was executed upon Defendant Raymond on or about October 5, 2007. (D.I. 66). According to the Court's Order the discovery deadline should be set at January 5, 2008, or 90 days after Raymond, a newly added Defendant was served.

6. On January 4, 2008, Plaintiff submitted a Second Set of Interrogatories directed to Defendants. (D.I. 73). A comparison of Plaintiff's most recent discovery request shows that he is making duplicative inquiries for information. Cf (D.I. 44 to D.I. 73).

7. Lastly, Plaintiff fails to state how much additional time he feels is necessary in order to complete discovery. Defendants contend the parties have been given sufficient time to complete discovery and that an extension of the discovery deadline is not warranted. It appears that Plaintiff requests extending the discovery deadline in order to locate the other Defendants; however, Plaintiff himself admits that this is an exercise in futility. Nor does Plaintiff indicate why an extension of time would help him in locating the newly added Defendants.

WHEREFORE, for the reasons stated herein, Defendants respectfully request that the Court deny Plaintiff's Motion for Enlargement of Time to extend discovery.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Catherine Damavandi
Catherine Damavandi (ID # 3823)
Deputy Attorney General
Department of Justice
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendants

Dated: January 11, 2008

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

KENNETH L. HOLLAND,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 05-464-SLR
)	
STANLEY TAYLOR, et al.,)	
)	
Defendants.)	

ADAM J. BRAMBLE,)	
)	
Defendant,)	
Counter-claim plaintiff,)	
)	
vi.)	
)	
KENNETH L. HOLLAND)	
)	
Plaintiff,)	
Counter-claim defendant.)	

ORDER

This _____ day of _____, 2008,

IT IS HEREBY ORDERED, that Plaintiff's Motion for Enlargement of Time to Complete Discovery is hereby **DENIED**.

Sue L. Robinson, Judge
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2008, I electronically filed *Defendants' Opposition to Plaintiff's Motion for Extension of Time to Complete Discovery* with the Clerk of Court using CM/ECF. I hereby certify that on January 11, 2008, I have mailed by United States Postal Service, the document to the following non-registered party:

Kenneth L. Holland
SBI#164800
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Catherine Damavandi
Catherine Damavandi (ID # 3823)
Deputy Attorney General
Department of Justice
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendants